IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1379 OF 1995

Shri Lahu Vasudeo Koli
age 32 years, Occ. service.
residing at P.M.C. Colony No.7
Building No.5,Ghorpade Peth,
Pune 411 042. .. Petitioner.

Vs.

1. The Dy.Director
Scrutiny Committee,
Tribal Research and Training
Institute, Maharashtra State,
Queen's Garden
Pune 411 001. ..

2. The State of Maharashtra ..

3. The Union of India
having its office at Aayakar
Bhavan, Churchgate,
Bombay ..

4. Assistant Commissioner
Pune Municipal Corporation
Pune 411 005 ..

5. Pune Municipal Corporation
Pune 411 005 .. Respondents.

None for the petitioner
Mr.P.M.Patil AGP for respondent nos.1 and 2.
Mr.R.G.Ketkar for respondent no.5.

CORAM : B.H.MARLAPALLE & D.B.BHOSALE, JJ.

DATED : MARCH 23, 2006.

ORAL JUDGMENT (PER B.H.MARLAPALLE, J.)

. In this petition filed under Article 226 and 227 of the Constitution, the petitioner has

questioned the legality of the order dated 16.12.1994 passed by the Committee for Scrutiny and Verification of Tribe Claims at Pune holding that the petitioner does not belong to Mahadeo Koli, Scheduled Tribe and as such his claim for the same stood invalidated. The caste certificate issued by the Executive Magistrate, Haveli Taluka, Pune District was directed to be cancelled and confiscated.

2. While granting Rule, this Court by its order dated 23.3.1995 had directed that the petitioner shall continue to be in service despite the impugned order of the scrutiny committee till the disposal of the petition. Mr.Ketkar, the learned counsel appearing for the Pune Municipal Corporation states that the petitioner is in employment at present. By the subsequent order dated 19.3.2003 the record and proceedings in case No.TRI/SER-PN-1796 from the office of the scrutiny committee was also called for and as per the Registry, despite reminders issued from time to time the said record and proceedings could not be received.

3. Before the scrutiny committee, the petitioner in support of his claim that he belongs

to Mahadeo Koli, Scheduled Tribe had submitted his school leaving certificate issued by the Head Master, Himgiri Vidyalay, Pune on 12.6.1982 and the caste certificate issued by the Executive Magistrate on 23.9.1982. As per the scrutiny committee the school leaving certificate dated 12.6.1982 recorded his caste "Hindu backward (M. Koli)". This was contrary to the certificate issued by the Executive Magistrate wherein it was stated that the petitioner belongs to Mahadeo Koli, Scheduled Tribe. The scrutiny committee noted that both these documents were contrary to each other. The committee proceeded to examine the petitioner's tribe claim with reference to traits, characteristics and customs of the community. At the time of personal hearing granted to the petitioner on 19.5.1994 he had furnished information regarding his tribe claim through his father and stated that the professional occupation of the family was agriculture and diety of the family as well as the community are Amba at Yawatmal, Saptshrungi at Karvi and Mahadeo and Khandoba. He has also stated that Koli, Pawar, Adatrao, Sangitrao, Sangle, Zunzarrao are some of the clans and surnames of the people in his community and that his relations reside in Haveli, Nasik, Sangli and Pandharpur tahsils. Shri Valmiki

Krushi was well known saint among his community and he was not aware of Waghbaras, Gaonbaras, Padkai and Gotarni which are peculiar systems among his community. The brief information submitted by him regarding God/Goddess was not relating to Mahadeo Koli, Schedule Tribe which is listed at Serial No.78 in Other Backward Classes list, declared by the State of Maharashtra.

4. Following the law laid down in the case of **Kumari Madhuri Patil and Anr. Vs. Additional Commissioner, Tribal Development and Others AIR 1995 SC 94**, the Supreme Court has subsequently held that while investigating these social claims of schedule castes and schedule tribes, vigilance enquiry is necessary and the Vigilance Officer on completion of the home enquiry and/or vigilance enquiry into the documents submitted by the claimant is required to submit his findings by visiting the concerned schools, offices and their villages, institutes like Village Panchayat, Talathi office as well as office of the Police Patil. In the instant case the scrutiny committee noted that the two documents submitted by the petitioner were contrary to each other but at the relevant time the concept of vigilance enquiry was not in place inasmuch as the impugned decision of

the scrutiny committee is dated 16.12.1994. The claim that the petitioner belongs to schedule tribe has civil consequences and more so when the petitioner appears to have been appointed against the post reserved for schedule tribe under respondent no.5. We are, therefore, of the considered opinion that his claim is required to be reconsidered by referring the documents submitted by him to the vigilance enquiry and he should be allowed to submit before the scrutiny committee any other relevant documents like the orders of the scrutiny committee upholding the claim of near blood relations etc. if any, so that he has fresh opportuniy of proving his tribes claim.

5. In the premises we allow this petition partly and quash and set aside the impugned order dated 16.12.1994 passed by the Scrutiny Committee. We direct the said committee to subject petitioner’s claim that he belongs to Mahadeo Koli tribe for denovo enquiry and the documents submitted and to be submitted by the petitioner shall be referred to the vigilance cell for it. The committeee shall take into consideration the vigilance enquiry report and offer a fresh hearing to the petitioner. The petitioner shall appear before the committee at Pune within a period of

four weeks from today and submit additional documents, if any. The committee shall follow due procedure afresh and re-adjudicate upon the petitioner's tribes claim and pass the final order as expeditiously as possible and preferrably within a period of six months from the first date of appearance of the petitioner before him.

6. Rule is made absolute, accordingly, with no orders as to costs.

(D.B.BHOSALE, J.) **(B.H.MARLAPALLE, J.)**